

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

JESSE BROWN,

Plaintiff,

vs.

MATTINGLY TESTING
SERVICES, INC. (MTS, INC.), a
Montana Business Corporation,

Defendant.

CV 10-110-BLG-RFC-CSO

SCHEDULING ORDER

A telephonic preliminary pretrial conference was held in this matter on January 20, 2011. Robert L. Stephens, Jr. represented the Plaintiff. Steven J. Lehman represented the Defendant. After discussion and upon the agreement of the parties, this Order is hereby entered.

1. The following deadlines govern all further pretrial proceedings:

Continuance of these deadlines will not be granted, absent good cause. A continuance of any deadline set by this order will not extend any other deadline.

Motions to Amend Pleadings (Including Joinder of Parties):	March 31, 2011
Simultaneous Serving of all Liability Expert Disclosures:	July 1, 2011
Serving of Plaintiff's Damage Expert Disclosures:	August 1, 2011
Serving of Defendant's Damage Expert Disclosures:	September 1, 2011
Serving of Plaintiff's Rebuttal Expert Disclosures:	September 19, 2011
Discovery Deadline (discovery must be served so that responses are due on or before this date):	November 1, 2011
Request for Settlement Conference:	November 1, 2011
Motions Deadline (Except Motions to Amend Pleadings and Motions in Limine):	November 28, 2011

IT IS FURTHER ORDERED:

2. FURTHER SCHEDULING

Following disposition of motions, the parties shall contact the Chambers of Chief United States District Judge Richard F. Cebull for further scheduling.

3. STIPULATIONS

The parties stipulate as follows:

- (a) Plaintiff was hired by Mattingly Testing Services, Inc., on March 16, 2009, as a Technician's assistant.
- (b) Plaintiff was discharged on September 4, 2009, during his probationary period.
- (c) Plaintiff's claim is brought under 42 U.S.C. § 5851 and not under 29 U.S.C. § 660.

4. MOTIONS

Briefing of all motions shall be in accordance with Local Rule ("L.R.") 7.

5. DISCOVERY

- (a) Interrogatories and requests for production must be served no later than 33 days prior to the discovery deadline specified in Paragraph 1 above.
- (b) During discovery, exhibits shall be numbered seriatim. Numbers used for exhibits during discovery shall be identically used at trial.

6. EXPERT REPORTS

- (a) An inadequate report or disclosure under Fed. R. Civ. P. 26(a)(2)(B) may result in exclusion of the expert's opinions at trial even though the expert has been deposed. In this regard, a **treating physician** is not considered an expert witness unless the testimony offered by the treating physician goes beyond care, treatment, and prognosis. If the

treating physician's testimony goes beyond care, treatment, and prognosis then there must be full compliance with the discovery requirements of Fed. R. Civ. P. 26(a)(2)(B).

- (b) Rebuttal Experts identified and disclosed under Fed.R.Civ.P. 26(a)(2) are limited to those persons expected to be called as experts to contradict, rebut, or impeach, expert opinions on new subject matter identified by another party which could not reasonably have been anticipated at the time of the initial disclosures.

DATED this 20th day of January, 2011.

/S/ Carolyn S. Ostby
United States Magistrate Judge